

PROVIDING FOR CERTAIN REDUCTIONS IN THE REIMBURSABLE
CONSTRUCTION COST OF THE KITTITAS DIVISION OF THE
YAKIMA RECLAMATION PROJECT, WASHINGTON

AUGUST 4, 1959.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 258]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 258), to provide for certain reductions in the reimbursable construction cost of the Kittitas division of the Yakima reclamation project, Washington, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

AMENDMENTS

S. 258, as amended, reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall deduct from the repayment obligation of the Kittitas Reclamation District, Washington, and from the cost of the Kittitas division of the Yakima Federal reclamation project, \$158,558 or such portion thereof as he shall determine properly represents canal and distribution system costs associated with one thousand two hundred and ninety-three and four-tenths acres of Kittitas division lands utilized for the Ellensburg Airport.

(2) The amount deducted as provided in section (1) shall be charged off as a permanent loss to the reclamation fund, but no adjustment shall be made by the United States by reason of such deductions with any individual landowner by way of refund of, or credit on account of, sums heretofore paid, repaid, returned, or due and payable to the United States, by way of exchange of land, or by any other method.

PURPOSE OF THE BILL

The original objective of S. 258 was to provide for certain overall reductions in the reimbursable costs of the Kittitas division of the Yakima project, Washington.

Section 1 of the bill as amended provides that the Secretary of the Interior shall deduct \$158,558 or such portion thereof as he may determine properly represents the costs associated with the area utilized for the Ellensburg Airport. Certain restrictions are provided with respect to credits to individual landowners.

The elimination of section 2 of S. 258, as introduced, is without prejudice to prosecution further of the claim of the Kittitas Reclamation District for the relief of \$1,486,156, the amount set forth in section 2 of S. 258, as introduced, with respect to nonproductive land in the district.

REPORTS OF EXECUTIVE AGENCIES

The comments of the Department of the Interior and the Bureau of the Budget are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 26, 1959.

HON. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR MURRAY: A report has been requested from this Department on S. 258, a bill to provide for certain reductions in the reimbursable construction cost of the Kittitas division of the Yakima reclamation project, Washington.

We take no position with respect to item (1) in section 1 of the bill but recommend that item (2) be deleted.

If enacted, S. 258 would direct that the reimbursable construction cost of the Kittitas division, Yakima Federal reclamation project, be reduced in two specified amounts. The first of these is \$158,558 or "such amount as represents the construction costs, as determined by the Secretary of the Interior, against land removed from an irrigable status as a result of the construction of the Ellensburg Airport by the U.S. Army."

The generally accepted principle is that when a portion of the irrigable area of a going project is taken out of production for highways, residential or industrial development, or other nonirrigation purposes, the government unit, individual, or corporation involved should assume responsibility for payment in full of the construction charges assigned to the land. In the case of the Yakima Artillery Range on the neighboring Roza division of the Yakima project, for instance, the Department of the Army has recently made payment into the reclamation fund to cover the entire construction obligation on the lands of the Roza Irrigation District which are being used for the range. Although, when lands within the jurisdiction of the Bureau of Reclamation are taken by another Federal agency, there may sometimes be justification for waiving the requirement and for simply treating the cost assigned to the lands as nonreimbursable, there is less reason for doing so when the agency is non-Federal.

The lands of the Kittitas division acquired for the Ellensburg Airport total about 1,420 acres, of which approximately 1,293 are irrigable. The lands in question were acquired in two transactions. One area (640 acres, of which 634 are irrigable) was acquired by Kittitas County in 1941 for the development as a municipal airport. The development was financed by the Civil Aeronautics Administration which found it to be necessary for national defense. In a letter dated September 10, 1941, to the district the county requested "that the land be relieved of any further assessments by your district, at least during the present national emergency." The district board of directors on the same date resolved "that said tract shall not be included in the assessment roll of said district for the year 1942 and shall continue to be omitted from future assessment rolls during said national emergency." On November 6, 1941, in a letter to the Bureau of Reclamation, the district requested "that all of the irrigable acreage in section 24-18-18 be excluded from payment of construction charges during the national emergency."

On April 6, 1942, Kittitas County requested that the lands in question be excluded from the district. The next day the district requested the Secretary of the Interior to consent to such exclusion with the understanding "that such exclusion will in no way effect [sic] the total obligations due the Government for the canal and storage construction charges." The consent was given on October 15, 1942, on the basis of a further resolution of the board of directors of the Kittitas district which contained the following paragraph:

"And be it further resolved, That such exclusion will in no way effect [sic] (a) the gross amount payable to the United States by the district on a crop-return basis, it being understood that the amounts of the annual crop-basis installments are to be determined under the provisions of the contract, as amended, between the United States and the district dated December 19, 1925, for the irrigable area remaining in the district after said land is excluded, or (b) either the gross amount payable or the amounts of the annual installments, payable by the district to the United States under the district's contracts for the purchase of storage water."

An additional 780 acres of land (of which about 659 were classified as irrigable) lying within the Kittitas district and adjacent to the tract just discussed were acquired by the War Department for military airport use in 1943 or 1944. These lands were acquired by condemnation. The Kittitas district was joined as a party defendant in the action, but we are not informed whether the Kittitas district was reimbursed for its lien on the land (*United States v. Aho*, 68 F. Supp. 358 (D.C., Oreg., 1944), *United States v. Florea*, 68 F. Supp. 367 (D.C., Oreg., 1945)). These lands have never been excluded from the district. In 1948, the United States transferred title to them to Kittitas County with a clause providing for reversion to the Government in the event of national emergency. It is our understanding that approximately 146 acres have been returned to irrigated farming use and that the remainder is being operated as a part of the airport by the municipality.

If, after consideration of these facts, your committee concludes that a reduction should be allowed in this instance, we recommend that the material in the bill beginning at line 3, page 1, and continuing through page 2, line 2, be revised to read along these lines:

"(a) The Secretary shall deduct from the repayment obligation of the Kittitas Reclamation District, Washington, and from the cost of the Kittitas division of the Yakima Federal reclamation project, \$158,558 or such portion thereof as he shall determine properly represents canal and distribution system costs associated with one thousand two hundred and ninety-three and four-tenths acres of Kittitas division lands utilized for the Ellensburg Airport.

"(b) The amount deducted as provided in section (a) of this section shall be charged off as a permanent loss to the reclamation fund, but no adjustment shall be made by the United States by reason of such deductions with any individual landowner by way of refund of, or credit on account of, sums heretofore paid, repaid, returned, or due and payable to the United States, by way of exchange of land, or by any other method."

If it is so amended, section 2 of the bill becomes unnecessary.

Item (2) of section 1 of S. 258 proposes a deduction from the reimbursable costs of the Kittitas division amounting to \$1,468,156 "or such amount as represents the construction costs, as determined by the Secretary of the Interior, against twelve thousand one hundred and fifty-one acres of unproductive land in such division." We believe there is little merit in this proposal and recommend that it be deleted from the bill. We point out, moreover, that our studies indicate the correct acreage to be 11,462.

The writing off of these construction charges was explored in 1949 in connection with the amendatory repayment contract then being negotiated with the Kittitas Reclamation District. No writeoff of construction cost was found justifiable. It was found, rather, that the irrigation facilities serving the district were being used to full capacity by the district and that no excess capacity existed which could be attributed to the elimination of lands from the irrigable area of the district. The effect on repayment capacity of the reduction in irrigable area, however, was recognized and compensated for in establishing the annual construction installments under the district's amendatory repayment contract. This contract was approved by the act of May 6, 1949 (63 Stat. 62, 64).

At the request of the district the matter was reviewed in 1953. The regional director of the Bureau of Reclamation at Boise, Idaho, arranged for the making of a field investigation to determine whether or not there existed excess capacity which could justify a recommendation for the writing off of project construction costs. It was recognized that if excess capacity did in fact exist, a reduction in the total repayment obligation of the district might be justified, the net effect of which would be to shorten the payout period. The regional director, following his reinvestigation of this matter, reported substantially that there was no excess capacity and that there had been no abandonment of canals, laterals, or other project facilities attributable to land reclassification on which to base a recommendation for a writeoff of construction costs. The matter has been rereviewed since that time with the same conclusion.

In presenting the 1949 amendatory contract to the Congress, it was determined, in accordance with requirements of section 7 of the Reclamation Project Act of 1939, that the contract provided a fair and equitable solution of the repayment problems of the district. The district, without apparent difficulty, has made all payments coming

due under the amendatory contract. In view of this fact and the absence of excess capacity in the canal and lateral system, we recommend that the provisions of the bill relating to this matter be not enacted.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 24, 1959.

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letter of January 19, 1959, requesting the views of the Bureau of the Budget on S. 258, a bill to provide for certain reductions in the reimbursable construction cost of the Kittitas division of the Yakima reclamation project, Washington.

S. 258, if enacted, would direct the Secretary of the Interior to make reductions in the repayment obligations of the Kittitas division, Yakima Federal reclamation project, consisting of \$158,558 or such amount as the Secretary determines represents construction costs against land removed from an irrigable status as a result of the construction of the Ellensburg Airport by the U.S. Army, and \$1,468,156 or such amount as represents the construction costs against certain unproductive lands in the division.

The Department of the Interior, in a letter to your committee concerning S. 258 dated February 26, 1959, takes no position with respect to the first reduction, and recommends against the latter. We are in accord with the position of the Department on these proposals.

Accordingly, the Bureau of the Budget recommends against enactment of the bill in its present form.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

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WITNESS MY HAND AND SEAL OF OFFICE AT WASHINGTON, D.C.,

this 10th day of June, 1964. I have read the foregoing report and find it to be a true and correct statement of the facts as they came before me. I have also read the report of the Secretary of the Department of the Interior and find it to be a true and correct statement of the facts as they came before me.

Very truly yours,
John G. A. [Signature]

John G. A. [Signature]
Secretary of the Interior

Enclosed for the Secretary of the Interior are two copies of the report of the Secretary of the Department of the Interior.

Very truly yours,
John G. A. [Signature]

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